

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 63 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PATEL AMBALAL PURSHOTTAMDAS

Versus

GUJARAT ROAD TRANSPORT CORPN

Appearance:

PETITIONER SERVED BY AFFIXING NOTICE
MR MD PANDYA for Respondent No. 1

CORAM : MR.JUSTICE D.G.KARIA

Date of decision: 20/03/96

ORAL JUDGEMENT

The revision application is directed against the judgment and order dt. 9/9/1982 passed by the learned Civil Judge (J.D.), below applications Exs.18 and 24 in Civil Suit No. 255 of 1980 filed in the court of learned Civil Judge, Mehsana.

Before I deal with the merits of the revision application, it may be mentioned that the notice was ordered to issue to the present petitioner on sad demise

of his advocate and the records indicate that the notice is served by affixing on 19th April 1995. The petitioner has, however, not appeared through any advocate, nor remained present himself. The revision application being quite old arising of 1980 suit which requires to be disposed on merits and in accordance with law.

The plaintiff S.T. Corporation has instituted a Civil Suit No. 255 of 1980 against the petitioner (original defendant) for recovery of Rs.18,819-55 Ps. on the ground that the said sum was payable with interest on account of joint award which was passed by the Motor Accident Claims Tribunal, Mehsana, on account of joint tort-feasor. In that suit, the application was submitted that in view of Sec.110F of the Motor Vehicles Act, before its amendment, in respect of bar of jurisdiction of Civil Court and as such Civil Court has no jurisdiction to entertain the suit. It was also claimed in the application that the issue related to jurisdiction and as such the preliminary issue with regard thereto should be framed and it should be heard and disposed of as preliminary issue. The learned Joint Civil Judge, Mehsana, by his judgment and order dt. 5th November, 1983, rejected the application. It is against this order that the petitioner has approached this court by way of the present revision application.

On perusal of the relevant record, I am of the view that the learned Judge was justified in rejecting the application, inasmuch as the civil court was not competent to entertain any question relating to any claim for compensation which was adjudicated upon by the claims tribunal. The plaintiff filed the suit that the petitioner defendant was liable to pay the amount to it by way of joint tort-feasor as per award already passed by the Motor Accident Claims Tribunal, Mehsana. Therefore, the suit is not with regard to claim of compensation. The learned Judge has, therefore, rightly decided that the court has jurisdiction to entertain the suit, particularly regarding Issue No.3 therein. Under the circumstances, there was no question of raising or deciding any preliminary issue relating to the jurisdiction.

On the above premise, the learned Judge has not failed to exercise jurisdiction vested in him, nor he has acted in exercise of his jurisdiction illegally or with material irregularity. The revision application, therefore, fails and it is dismissed. There should be no order as to costs. Rule discharged. Interim stay stands vacated.
